

Amendment 1067 – Protecting Americans from Violent Crime Act of 2009

- **This Legislation Is Still Needed**
- **Congressional Leadership Inappropriately Blocked Consideration of This Measure Repeatedly**
- **Gun Bans On Federal Property Were Enacted By Unelected Bureaucrats Without The Authority Of Congress**
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- **Crime Rates On Federal Lands Are Rising**
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- **Gun Regulations Were Confusing, Burdensome and Ineffective**
- **This Legislation Will Enable Law-Abiding Citizens to Defend Themselves in National Parks and Refuges**

For decades, regulations enacted by unelected bureaucrats at the National Park Service (NPS) and the U.S. Fish and Wildlife Service (FWS) have

prohibited law abiding citizens from possessing firearms on some federal lands. The enactment of these rules pre-empted state laws, bypassed the authority of Congress, and trampled on the Constitutional rights of law abiding Americans guaranteed by the 2nd Amendment of the U.S. Constitution.

This legislation enables Congress to belatedly weigh in on this important matter.

The Protecting Americans from Violent Crime Act of 2009 would ensure state gun laws and citizens' Constitutional rights are honored on federal lands by prohibiting the Department of Interior from creating or enforcing any regulations prohibiting an individual, not otherwise prohibited by law, from possessing a firearm in national parks and wildlife refuges in compliance with and as permitted by state law.

This legislation would prohibit federal bureaucrats, activist judges, and special interest groups from infringing on the right for law-abiding Americans to defend themselves and their families in national parks and refuges. This legislation does not affect current hunting and poaching rules in national parks and refuges.

This Legislation Is Still Needed

While the Department of the Interior (DOI) finalized regulations permitting the possession of firearms in national parks and refuges in accordance with state law over a one-year time period, several anti-gun groups have successfully sued¹ the Department of the Interior to prevent this rule from being implemented for the time being.²

An activist judge granted blocked the final gun-in-parks rule because the Bush Administration did not conduct an environmental impact analysis of the rule change. Such an analysis was not conducted because the rule

¹ Ben Conery, "Suit challenges national parks gun rule," December 31, 2008, Washington Times, <http://washingtontimes.com/news/2008/dec/31/national-park-gun-carrying-rule-prompts-suit/>

² Juliet Eilperin and Del Quentin Wilber, "Judge Blocks Rule Permitting Concealed Guns In U.S. Parks," March 20, 2009, Washington Post, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/19/AR2009031902801.html?hpid=moreheadlines>

change neither authorized the discharging of conceal carry weapons, nor the poaching of animals.

DOI decided not to appeal this ruling, and is, instead, conducting a lengthy environmental review before it makes a final determination on the rule change.³

Even if this rule, allowing visitors to carry concealed firearms in accordance with state law, is reinstated, future Administrations or activist judges could repeal these regulations without Congressional approval. Unelected bureaucrats and judges should not continue to have the ability to revoke a constitutional right of law-abiding Americans. Passing this legislation will help ensure that such a comprehensive gun ban may never again be enacted by unelected officials.

Congressional Leadership Inappropriately Blocked Consideration of This Measure Repeatedly

Members of Congress have repeatedly attempted to bring up this measure for a clean, fair vote. Unfortunately, Congressional Leadership has gone to extreme lengths to avoid having a straight up-and-down vote on this measure.

On December 19, 2007, Majority Leader Reid entered into the record the following unanimous consent agreement:

“UNANIMOUS CONSENT AGREEMENT--S. 2483 -- (Senate - December 19, 2007)”

“Mr. REID. ‘Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 546, S. 2483 , the energy lands bills, at a time to be determined by the majority leader, following consultation with the Republican leader, and that when considered, it be considered under the following limitations: that the only amendments in order be five related amendments to be offered by Senator **Coburn**; that upon disposition of all amendments, the bill be read a third time, and the Senate proceed to vote on passage of the bill.’

³ Matthew Daly, “Obama administration won't challenge court ruling that blocks loaded guns in national parks,” April 17, 2009, Associated Press, <http://www.chicagotribune.com/topic/sfl-obama-100-041709guns-national-parks.0,645292.story>

“The ACTING PRESIDENT pro tempore. ‘Without objection, it is so ordered.’”⁴

This agreement permitted five related amendments to an omnibus bill that included dozens of bill that modified national park service lands. The parliamentarian ruled legislation allowing for firearm possession in national parks in accordance with state and federal law was related and in compliance with Senator Reid’s requirement. Instead of honoring this agreement, however, the Majority Leader pulled the entire bill from the floor and reintroduced a nearly identical measure to technically “honor” the unanimous consent agreement without allowing for a vote on related firearm legislation.⁵

Repeated attempts to bring this bill to the new bill were thwarted. Consequently, a version of this bill was included at a Senate Energy and Natural Resources Committee markup along with a package of lands bill. This amendment was adopted as a stand-alone measure by an 18-5 vote⁶ with the understanding that this bill would be included with the package of lands bill approved during the same markup. Despite a letter signed by five Senators on the Committee asking the chairman of the committee, “to honor this agreement and the bipartisan will of the Committee by including S. 3499 in the Omnibus Public Land Management Act of 2008,”⁷ this measure was excluded yet again.

When Members of the House of Representatives were close to forcing consideration of the Protecting Americans from Violent Crime Act as an amendment to this year’s Omnibus Public Land Management Act of 2009 (almost identical to the 2008 bill), Democratic leadership in the House and Senate coordinated to pull the bill from the floor in the House and add the entire bill in the Senate as a replacement to a previously passed House bill on designating a battlefield as a historic site. While Democratic leadership in the Senate had already managed to block a vote on the Protecting Americans from Violent Crime Act, by enacting this maneuver, the House

⁴ Congressional Record, December 19, 2007, <http://thomas.loc.gov/cgi-bin/query/D?r110:5:./temp/~r110zeSWRD::>

⁵ John Stanton, Coburn Comes Calling,” April 7, 2008, Roll Call, http://www.rollcall.com/issues/53_115/news/22843-1.html?type=printer_friendly

⁶ Avery Palmer, “Sen. Salazar Named Secretary of Interior,” December 17, 2008, CQ Today Online News <http://www.cqpolitics.com/wmspage.cfm?docID=news-000002998691&cpage=2>

⁷ Letter to Majority Leader Harry Reid, November 18, 2008, Senators Jim DeMint, John Barrasso, Jim Bunning, Richard Burr, Larry Craig

leadership was also able to block any amendments from being considered in the House.⁸

Last attempts to add firearm legislation to the Omnibus Public Land Management Act of 2009 proved unsuccessful.

Gun Bans On Federal Property Were Enacted By Unelected Bureaucrats Without The Authority Of Congress

In 1936 the National Park Service (NPS) established regulations banning firearms in national parks. These regulations were updated in 1983 to allow for guns to be transported through national parks if they were unloaded and stored in the trunk of cars.⁹

In 1976 the U.S. Fish and Wildlife Service (FWS) established similar regulations for federal refuges. These regulations were last updated in 1981.¹⁰

Congress has never endorsed or debated these gun bans.

Unfortunately, however, state laws permitting concealed carry of firearms were not recognized on federal land managed by NPS and FWS. Americans on these lands could not possess a loaded firearm in or on a motor vehicle, a boat or vessel except in specific circumstances. Firearms could only be transported in or on a motor vehicle, boat or horse if they were rendered temporarily inoperable, or packed, stored or cased in a manner that prevented their ready use.¹¹

The penalties for violating the gun prohibition included a fine of \$5,000 and six months in prison.

In addition to criminalizing law abiding citizens for exercising their constitutional rights, these regulations exposed the great threat of bureaucrats overstepping their authority – a threat that still exists.

⁸ Eric Bontrager, “House Republicans to push for guns amendment to public lands catchall,” March 24, 2009, New York Times, <http://www.nytimes.com/gwire/2009/03/24/24greenwire-house-republicans-to-push-for-guns-amendment-t-10263.html>

⁹ NPS Congressional Liaison E-mail – April 8, 2008

¹⁰ FWS Congressional Liaison E-mail – April 10, 2008

¹¹ 36 C.F.R. 2.4, 50 C.F.R. 27.4

These regulations and the corresponding penalties were established without any Congressional mandate or legislative approval.

It is troubling that government bureaucrats, single-interest groups, and activist judges could take away the rights of law abiding citizens guaranteed by the federal Constitution on federal property and without the consideration of the federal representatives of the people. The Supreme Court recently ruled that a complete ban on firearms is unconstitutional, yet federal bureaucrats have managed to completely ban firearms for over 70 years on all 83.6 million acres¹² of national park lands and for over 30 years on all 90.79 million acres¹³ of FWS lands, except for hunting purposes.

Recently, a judge also repealed the new regulations governing firearm possession in national parks and refuges on the grounds that no environmental review was completed prior to the promulgation of the rule.

It is unclear how allowing conceal carry has a significant impact on the environment, or how the National Environmental Protection Act supercedes the Second Amendment rights of law-abiding Americans on more than 170 million acres of federal lands.

While the activist judge ruled administration officials “abdicated their Congressionally-mandated obligation” to evaluate environmental impacts and “ignored (without sufficient explanation) substantial information in the administrative record concerning environmental impacts” of the rule, she failed to consider the Constitutional obligation to protect the right to bear arms.¹⁴

A handful of unelected and unaccountable bureaucrats and judges should not possess the ability to overstep the authority of the U.S. Congress, the Supreme Court, or the U.S. Constitution. “There was no legislative process

¹² <http://www.nps.gov/legacy/acreage.html>, accessed January 5, 2009

¹³ Ross Gorte et. al, “Federal Land Management Agencies: Background on Land and Resources Management,” February 9, 2009, Congressional Research Service

¹⁴ Juliet Eilperin and Del Quentin Wilber, “Judge Blocks Rule Permitting Concealed Guns In U.S. Parks,” March 20, 2009, Washington Post, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/19/AR2009031902801.html?hpid=moreheadlines>

– [NPS and FWS] bureaucrats arbitrarily terminated this Constitutional right.”¹⁵

Given the fact that a recent Investigator General report of the FWS Office of Law Enforcement found that this agency has been unable to even account for firearms under their own management, it also seems inappropriate for these agencies to concerns themselves with regulating the Second Amendment Rights of law-abiding citizens.¹⁶

It is clear that Congress should address this issue, and many in Congress have already expressed their opposition to these regulations, including 18 of the 23 members of the Senate Committee on Energy and Natural Resources in the 110th Congress who voted for this amendment – including the current Secretary of the Interior.¹⁷ Fifty Senators, including nine Democrats and 41 Republicans, also signed two letters to former Secretary of the Interior Dirk Kempthorne asking him to remove these regulations. Several additional Senators have indicated their support for allowing state laws to govern firearm possession on public lands and twenty-five Senators sponsored similar legislation last Congress.

Even the Department of the Interior – the agency that oversaw the creation of these regulations – commented in 2008 that, "It's appropriate to look at updating these regulations, to bring them into conformity with state laws [on guns use]."¹⁸ Following the release of the final regulations, a spokesman for the Department of the Interior pointed out, "This is the same basic approach adopted by the Bureau of Land Management and the United States Forest Service, both of which allow visitors to carry weapons consistent with applicable federal and state laws... Federal agencies have a responsibility to recognize the expertise of the states in this area, and federal regulations should be developed and implemented in a manner that respects state prerogatives and authority."¹⁹

¹⁵ Jerry Patterson, "National Parks Gun Ban Unconstitutional," May 27, 2008, San Antonio Express, http://www.mysanantonio.com/opinion/stories/MYSA.052808.OPED_1B_CommentPatterson.2690f28.html

¹⁶ Earl E. Devaney, "Assessment of the U.S. Fish and Wildlife Service Office of Law Enforcement," February 2007, http://www.doi.gov/upload/FWS_OLAssessmentFINAL021507.pdf

¹⁷ "Senate Panel Votes to Permit National Park Visitors to Carry Guns," CQ Today, Sept. 11, 2008, <http://www.cqpolitics.com/wmspage.cfm?parm1=1&docID=cqmidday-000002948759>

¹⁸ Matthew Daly, "Park Rangers Oppose Bid to Ease Gun Ban," Associated Press, February 26, 2008, <http://ap.google.com/article/ALeqM5irWgvJzXz3UFknRjrJgjierKwnFwD8V1MH200>

¹⁹ Department of the Interior, "Interior Announces Final Firearms Policy Update," December 5, 2008, Press Release, http://www.doi.gov/news/08_News_Releases/120508.html

No Other Federal Land Agency Has Enacted Anti-gun Rules Similar To The National Park Service and Fish and Wildlife Service

As a spokesman for the Department of the Interior pointed out in a press release,²⁰ both the Bureau of Land and Management (BLM) and the U.S. Forest Service (FS) allow for the law of the state in which the federal property is located to govern firearm possession.

FS and the BLM have not experienced any difficulties as a result of allowing firearm possession.²¹

According to the BLM, "Laws and reg[ulation]s pertaining to concealing and carrying firearms are within [states'] jurisdiction and we only enforce them on public land if we have state authority by way of a local agreement. The BLM has some regulations on the use of firearms that pertain to specific areas, such as recreation sites and other areas that may be closed to shooting (but that does not make it illegal to possess a firearm in those areas)."²²

If other land preservation agencies never had to enact regulations infringing on the second amendment – including one agency within the Department of the Interior – why did NPS and FWS, which are both within the Department of the Interior?

This Legislation Will Protect Law-abiding Citizens Without Threatening Natural Resources Or Wildlife

These anti-gun regulations were intended to "ensure public safety and maximum protection of natural resources," according to Scot McElveen, the president of the Association of National Park Rangers.²³

According to NPS and FWS, prohibiting citizens to carry legally-owned and registered firearms was necessary to prevent the poaching of animals living

²⁰ Department of the Interior, "Interior Announces Final Firearms Policy Update," December 5, 2008, Press Release, http://www.doi.gov/news/08_News_Releases/120508.html

²¹ FS Congressional Liaison E-mail – September 24, 2007

²² BLM Congressional Liaison E-mail – September 20, 2007

²³ <http://www.nationalparkstraveler.com/2008/01/association-national-park-rangers-opposes-change-gun-laws-parks>

on NPS and FWS lands.²⁴ Anti-gun groups sued the Department of the Interior to repeal the implementation of the finalized rule change, claiming in part that overturning the gun ban will compromise the safety of humans and animals.²⁵

The Department of Justice argued against the lawsuit, pointing out that the new rule “does not alter the environmental status quo, and will not have any significant impacts on public health and safety.”²⁶

This legislation will likewise not enable or permit illegal hunting of animals on these lands. Other NPS and FWS regulations specifically governing illegal hunting will remain in place, ensuring that poaching will still be illegal.²⁷

It will also not authorize the discharging of firearms or target practice in these natural reserves.

Proponents of these extreme gun restrictions have also claimed that the unconstitutional regulations are a necessary law enforcement tool against poaching and other crimes. They reason that if guns are outlawed in parks and refuges, law enforcement can use the possession of a firearm to prosecute would-be poachers.

In addition to the fact that the Second Amendment was not recognized by our founders to give law enforcement officers in national parks and refuges an additional tool to eliminate poaching, the fact that both BLM and FS have not “required” these additional regulations further proves these anti-gun regulations are unnecessary.

As the former Department of the Interior Secretary Dirk Kempthorne points out, “Since the [proposed federal regulations similarly] maintain existing prohibitions on poaching and target shooting, and carrying weapons in

²⁴ FWS Congressional Liaison E-mail – January 18, 2008

²⁵ Ben Conery, “Suit challenges national parks gun rule,” December 31, 2008, Washington Times, <http://washingtontimes.com/news/2008/dec/31/national-park-gun-carrying-rule-prompts-suit/>

²⁶ Juliet Eilperin, “Justice Dept. Defends Bush Rule on Guns: But Interior Is Reviewing Measure, Which Allows Concealed Firearms in Parks,” February 17, 2009, Washington Post, <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/16/AR2009021601151.html>

²⁷ FWS Congressional Liaison E-mail – January 23, 2008

federal buildings, [it] would not cause a detrimental impact on visitor safety and resources.”²⁸

Crime Rates On Federal Lands Are Rising

National parks, while still generally safe for visitors, have seen an increase in crime.

According to the National Park Service and the Fish and Wildlife Service, in 2006 there were 16 homicides (including one manslaughter charge), 41 rape cases (including two attempted rapes), 92 robberies, 16 kidnappings, and 333 aggravated assaults out of 5094 Part I offenses. In national parks there were a total of 116,588 offenses.²⁹ These offenses only include homicides and other crimes handled by national park and refuge law enforcement, but don't account for the homicides and crimes other law enforcement agencies processed (e.g. the Federal Bureau of Investigations, Drug Enforcement Agency, local law enforcement).

Overriding state laws that give its residents the ability to defend themselves may increasingly place NPS and FWS visitors in unnecessary danger.

NPS and FWS anti-gun regulations disarm individuals and leave them and their families vulnerable to crime on public lands.

In a Seattle Times article titled, “Crime Slowly Creeps Into Parks, Forests,” Captain John Klaasen of the U.S. Forest Service states, “If you see [a crime] happening in the city, it happens in the forest.” Whether it is meth labs hidden amid lush forests or car prowls at trailheads, park rangers and forest officers are seeing an increasing amount of criminal behavior.³⁰

Following the grisly murders of four women at Yosemite National Park in 1999, Elaine Sevy with the National Park Service stated, “You're not

²⁸ Dirk Kempthorne, “Parks respect states' authority on guns,” May 17, 2008, The Tennessean, <http://www.tennessean.com/apps/pbcs.dll/article?AID=/20080517/OPINION01/805170331/1008>

²⁹ Tillie Fong, “Violent Crime Rare on Public Land,” Rocky Mountain News, June 29, 2007

³⁰ Jennifer Sullivan, “Crime Slowly Creeps Into Parks, Forests,” Seattle Times, October 16, 2006, http://seattletimes.nwsource.com/html/localnews/2003305418_safetrails15m.html

escaping society when you come to the parks. Understand that parks are a microcosm of society."³¹

For many criminals, parks and forests offer a safe haven. Consequently, visitors enjoying some of our nation's natural treasures are increasingly vulnerable to harm and personal injury.

According to a San Francisco Chronicle article, "National Parks' Pot Farms Blamed on Cartels; Mexican Drug Lords Find it Easier to Grow in State Than Import,"

"Hikers in national parks such as Yosemite and Sequoia-Kings Canyon are encountering a danger more hazardous than bears: illegal marijuana farms run by Mexican drug cartels and protected by booby traps and guards carrying AK-47s... Park service officials said the drug cartels took extreme measures to protect their plants, which can be worth \$4,000 each. Growers have been known to set up booby traps with shotguns. Guards armed with knives and military-style weapons have chased away hikers at gunpoint. In 2002, a visitor to Sequoia was briefly detained by a drug grower, who threatened to harm him if he told authorities the pot farm's secret location."³²

A more recent news story also highlighted this dilemma. Special Agent eradication teams heavily armed are needed to clear thousands of pot plants in state and national parks and other public lands. Many of the marijuana fields are located next to popular trails. However, "The folks who are growing the marijuana are not your peace hippies from the 60s... These are armed members of the Mexican drug trafficking organizations, who utilize assault style weapons, assault rifles to protect their cash crops."³³

³¹ Paul Van Slambrouck, "Coping with crime in shadow of Half Dome," Christian Science Monitor July 29, 1999

³² Zachary Coile, "National parks' pot farms blamed on cartels; Mexican drug lords find it easier to grow in state than import," The San Francisco Chronicle, November 18, 2005

³³ "Special Report: Pot Farmers Ravage Bay Area Parks – Many Pot Farms Located On Public Land," August 5, 2008, NBC11.com (CA), <http://www.nbc11.com/newsarchive/17100461/detail.html>

Special Agent Eradication Teams



A February 2005 Report, “Marijuana and Methamphetamine Trafficking on Federal Lands Threat Assessment,” concluded that already high levels of cultivation of cannabis and methamphetamine production by Mexican drug-trafficking organizations are likely to increase.

“Cannabis cultivators and methamphetamine producers on federal lands often are armed, and

cannabis grow sites and methamphetamine laboratories frequently are booby-trapped. Law enforcement officers have seized shotguns, handguns, automatic weapons, pipe bombs, grenades, and night vision equipment from drug producers and smugglers on federal lands.”³⁴

With one law enforcement officer for about every 110,000 visitors and 118,000 acres of national park land, park police may not always be close by and individuals may be left to defend themselves.³⁵ While park rangers now use bullet-proof vests and automatic weapons to enforce the law, regular Americans in states where carry laws exist, are denied the opportunity for self-defense because of these NPS and FWS regulations.

Drug and human smuggling across the U.S. Mexico border has made it impossible and dangerous for scientists to continue their research and for visitors to frequent “well-marked but unofficial trails” in a national park.³⁶

“Organ Pipe Cactus National Monument stopped granting most new research permits because of increasing smuggling activity. Scientists must sign a statement acknowledging that the National Park Service cannot guarantee their safety from “potentially dangerous persons entering the park from Mexico.”³⁷

³⁴ National Drug Intelligence Center, “Marijuana and Methamphetamine Trafficking on Federal Lands Threat Assessment,” February 2005

³⁵ GAO, “Actions Needed to Better Protect National Icons and Federal Office Buildings from Terrorism,” June 24, 2005, <http://www.gao.gov/new.items/d05790.pdf>

³⁶ <http://www.nps.gov/orpi/planyourvisit/yoursafety.htm>

³⁷ Associated Press, “Violent Border Smugglers Scare U.S. Scientists,” Foxnews.com, December 30, 2007, <http://www.foxnews.com/story/0,2933,319028,00.html>

Lands managed by the Department of the Interior lands make up more than 39 percent of our border with Mexico. Mexican drug trafficking organizations smuggling operations rely on back routes and private roads through these lands to transport marijuana and methamphetamine. These drugs are primarily smuggled through NPS and FWS lands.³⁸

A report by the National Parks Conservation Association in 2007 titled, “Perilous Parkland: Homeland Security and the National Parks,” detailed how over the past two years at Organ Pipe Cactus National Monument, “park rangers have arrested and indicted 385 felony smugglers, seized 40,000 lbs. of marijuana, and intercepted 3,800 illegal aliens. The Border Patrol estimated that 500 people per day (180,000 per year) and 700,000 pounds of drugs entered the U.S. illegally through the monument in the year 2000.” It is no wonder the law enforcement staff of 11 park rangers is encountering difficulties in managing a 330,000 acre park with numerous activities initiated by Mexican drug cartels.³⁹

This park was ranked by the Fraternal Order of Police as the most dangerous national park in 2003. While two other parks on the Mexico-U.S. border were listed in top ten most dangerous national parks in 2003, other parks included on this list were in states such as New Jersey, Florida, Virginia and Wyoming – Yellowstone National Park.⁴⁰

The Government Accountability Office (GAO), in a report entitled, “Actions Needed to Better Protect National Icons and Federal Office Buildings from Terrorism,” additionally expressed concern with the ability of the Interior Department to maintain adequate security in the post-9/11 world of heightened alerts due to potential terrorist attacks.

According to a survey by the National Park Service, safety concerns have played a significant role in the decreasing number of National Park visitors.⁴¹

³⁸ National Drug Intelligence Center, “Marijuana and Methamphetamine Trafficking on Federal Lands Threat Assessment,” February 2005

³⁹ National Parks Conservation Association, “Perilous Parkland: Homeland Security and the National Parks,” March 4, 2007, http://www.npca.org/media_center/fact_sheets/security.html

⁴⁰ Environment News Service, “U.S. Rangers, Park Police Sustain Record Levels of Violence,” September 1, 2004, <http://www.ens-newswire.com/ens/sep2004/2004-09-01-02.asp>

⁴¹ Julie Cart, “The State; Camp? Outside? Um, no thanks; Fewer Americans are visiting national parks. Administrators ask why,” Los Angeles Times, November 24, 2006

Another result of this surge is that, "National Park Service officers are 12 times more likely to be killed or injured as a result of an assault than FBI agents."⁴²

According to the group Public Employees for Environmental Responsibility, "National Park Service commissioned law-enforcement officers were victims of assaults 111 times in 2004, nearly a third of which resulted in injury. This figure tops the 2003 total of 106 assaults and the 2002 total of 98."⁴³

Because of this threat, rangers in higher crime areas often carry automatic weapons and wear bullet-proof vests.

In a CBS News article titled, "Crime Rates Up in National Parks – More Rangers Find Themselves Battling Lawlessness," former Executive Director of the U.S. Park Rangers Lodge of the Fraternal Order of Police and 30-year park ranger, Randall Kendrick noted that "The National Park Service has an astoundingly poor safety record for its officers... If anything, these assaults against park rangers are undercounted. If there is not a death or injury, pressures within a national park can cause the incident to be reported as being much more minor than it is in reality, and it is not unheard of for an assault to go unreported altogether."⁴⁴

FWS refuges have also experienced significant crime and law enforcement concerns. The Cooperative Alliance for Refugee Enhancement (C.A.R.E.) released a report this past May that pointed out that refuges are also becoming increasingly dangerous to visitors. According to the report, "Restoring America's Wildlife Refuges," there is one law enforcement officer for every **555,000** acres of refuges.⁴⁵

⁴² Brad Knickerbocker, "Crime Rates Up In National Parks – More Rangers Find Themselves Battling Lawlessness," CBS News – Christian Science Monitor, August 8, 2005, <http://www.cbsnews.com/stories/2005/08/08/national/main765404.shtml>

⁴³ Brad Knickerbocker, "Crime Rates Up In National Parks – More Rangers Find Themselves Battling Lawlessness," CBS News – Christian Science Monitor, August 8, 2005, <http://www.cbsnews.com/stories/2005/08/08/national/main765404.shtml>

⁴⁴ Brad Knickerbocker, "Crime Rates Up In National Parks – More Rangers Find Themselves Battling Lawlessness," CBS News – Christian Science Monitor, August 8, 2005, <http://www.cbsnews.com/stories/2005/08/08/national/main765404.shtml>

⁴⁵ Cooperative Alliance For Refuge Enhancement, "Restoring America's Wildlife Refuges," May 2008

President of the National Wildlife Refuge Association and chairman of C.A.R.E., Evan Hirsche, said the following:

“A decrease in law enforcement has left the refuges vulnerable to criminal activity, including prostitution, torched cars and illegal immigrant camps along the Potomac River in suburban Washington, methamphetamine labs in Nevada and pot growing operations in Washington state... In some cases, we find that drug operations have set up shop in refuges.”⁴⁶

Illegal Immigrant Camp in a National Refuge



The C.A.R.E. report finds that, “On many wildlife refuges, drugs are a serious problem. These aren’t small-time marijuana gardens; drug operators on refuges frequently defend their plots with armed guards... A 2005 report by the International Association of Chiefs of Police (IACP) detailed the urgent need for additional law enforcement to respond to

commercial-scale drug production and trafficking, wildlife poaching, vandalism, assaults, and a host of other crimes.”⁴⁷

For example, according to C.A.R.E., because of staffing cuts, Tishomingo National Wildlife Refuge located in Oklahoma, will now share one law enforcement officer with a refuge in Texas – one law enforcement officer for 200,000 annual visitors.⁴⁸

While better prioritization of federal funds may be needed to increase law enforcement efforts in our public parks, refuges, and forests, allowing visitors to national parks and refuges to possess guns provides responsible gun owners the ability to defend themselves in the event that other protection is not available.

⁴⁶ “Drugs, prostitution threaten wildlife refuges,” May 23, 2008, CNN.com, <http://www.cnn.com/2008/US/05/23/neglected.refuges.ap/>

⁴⁷ Cooperative Alliance For Refuge Enhancement, “Restoring America’s Wildlife Refuges,” May 2008

⁴⁸ “Restoring Our Refuges: A Plan for Oklahoma,” Cooperative Alliance For Refuge Enhancement, <http://www.refugenet.org/CARE/FactSheets08/OK08.pdf> - accessed February 17, 2009

Gun Regulations Were Confusing, Burdensome and Ineffective

The contradictory patchwork of federal regulations within different agencies created the scenario where a law-abiding gun-owner traveling from public land managed by BLM to an adjacent NPS or FWS unit was subject to a \$5,000 fine and a six month prison sentence for violating federal regulations.

In many states, people have to pass through designated federal lands every day. They should be able to do so without having to worry about which laws apply on what type of public land, if they are authorized to carry firearms under state law.

A man driving along the Blue Ridge parkway in Virginia was stopped for failing to obey a stop sign by a national park ranger. Upon further inspection, the ranger found two loaded firearms in the car. The defendant was licensed to conceal carry under Virginia state law and did not know he was in violation of national park service regulations and had not observed any signs prohibiting the possession or transportation of loaded and operational firearms. The road he was on also serves as highway between routes 460 and 220 in the Roanoke area. The defendant was found guilty, even though he was in his car and permitted under state law to possess firearms because of an administrative rule.⁴⁹

The bureaucrats seemingly well intended goal of “protecting” the public and natural resources holds the same flaws of other anti-gun efforts: It ensures that only criminals possess firearms and makes law abiding citizens subject to criminal penalties for exercising their Constitutional rights.

An editorial in the *Colorado Spring Gazette* pointed out that “Armed law-abiding citizens aren’t the source of violence, criminals are.”⁵⁰

⁴⁹UNITED STATES OF AMERICA v. DAMON J. GETTIER, Case No. 7:08-po-0024, U.S. District Court for the Western District of Virginia Roanoke Division,

<http://www.vawd.uscourts.gov/opinions/urbanski/mo.708po024gettier.pdf>

⁵⁰ The Gazette, “Pursuing safety - Half of Senate backs firearms in parks,” January 13, 2008,

http://www.gazette.com/opinion/firearms_31930_article.html/parks_rules.html

Likewise, John Stossel commented that,

“[L]aws that make it difficult or impossible to carry a concealed handgun do deter one group of people: law-abiding citizens who might have used a gun to stop crime. Gun laws are laws against self-defense.

Criminals have the initiative. They choose the time, place and manner of their crimes, and they tend to make choices that maximize their own, not their victims', success. So criminals don't attack people they know are armed, and anyone thinking of committing mass murder is likely to be attracted to a gun-free zone, such as schools and malls [or national parks].

If you are the target of a crime, only one other person besides the criminal is sure to be on the scene: you. There is no good substitute for self-responsibility.”⁵¹

Individuals who are already willing to break the law to illegally hunt on public lands, after all, are no more likely to obey federal regulations that disallow the use firearms on public lands.

Federal Law Enforcement in Parks and Refuges is Ineffective and Incompetent

According to the Inspector General of the Department of the Interior, NPS law enforcement agents and rangers are ineffectively managed by “non-law enforcement managers.”⁵²

In a statement before the Senate Committee on Finance, Inspector General Earl E. Devaney remarked that various Superintendents of a number of dangerous parks opposed increasing law enforcement staff to combat rising crime levels for a variety of reasons.

Some Superintendents ordered rangers not to carry firearms because they thought it would “offend park visitors.”⁵³

Other Superintendents assigned law enforcement staff non-law enforcement work to prevent them from becoming “too much like cops” or

⁵¹ John Stossel, “Guns Save Lives,” RealClearPolitics, February 27th, 2008, http://www.realclearpolitics.com/articles/2008/02/guns_save_lives.html

⁵² Earl E. Devaney, “U.S. Borders: Safe or Sieve,” Senate Committee on Finance, January 30, 2003

⁵³ Earl E. Devaney, “U.S. Borders: Safe or Sieve,” Senate Committee on Finance, January 30, 2003

because “the public does not want park rangers with the same edge as FBI agents but instead what the public wants is the park ranger to be cut from the same cloth as a boy scout.”⁵⁴ One assistant Park Police chief sought to address safety concerns with the statement that terrorists “are not incredibly sophisticated.”⁵⁵

According to the Washington Post, a February 2008 assessment of the United States Park Police by Mr. Devaney concluded that:

“The U.S. Park Police have failed to adequately protect [] national landmarks [] and are plagued by low morale, poor leadership and bad organization... The force is understaffed, insufficiently trained and woefully equipped...”⁵⁶

The International Association of Chiefs of Police also described law enforcement staffing at the Park Service as “patently illogical and erratic.”⁵⁷

This Legislation Will Enable Law-Abiding Citizens to Defend Themselves in National Parks and Refuges

This legislation would not void state and local laws that prohibit the possession of fire arms and do not provide state residents with conceal and carry permits. National monuments would still be governed by U.S. law that prohibits the possession of firearms at federal facilities,⁵⁸ and visitors to national parks in states with no conceal and carry laws would be required to follow state law.

This legislation, similarly to the recently implemented rule change, does, however, require the National Park Service and any other agency under the Department of the Interior to promulgate regulations regarding firearm possession that do not conflict with state and local laws – including conceal and carry laws.

An aggressive black bear was shot and killed in the Denali National Park in Alaska. Luckily one of the three **park employees** threatened by this bear

⁵⁴ Earl E. Devaney, “U.S. Borders: Safe or Sieve,” Senate Committee on Finance, January 30, 2003

⁵⁵ Michael E. Ruane, “Park Police Rebuked For Weak Security,” Washington Post, February 4, 2008

⁵⁶ Michael E. Ruane, “Park Police Rebuked For Weak Security,” Washington Post, February 4, 2008

⁵⁷ Earl E. Devaney, “U.S. Borders: Safe or Sieve,” Senate Committee on Finance, January 30, 2003

⁵⁸ 18 U.S.C. 930

was authorized to carry a gun. “An attempt to divert the bear with pepper spray was ineffective,”⁵⁹ and the bear was shot and killed. Typical Americans would not have been permitted to defend themselves with anything besides “ineffective” bear spray.

A boy celebrating his tenth birthday in Tonto National Forest in Arizona was attacked by a rabid mountain lion. The lion made two attempts to attack the boy, but was shot both times by the boy’s uncle with a pistol. The second shot killed the mountain lion. If this event had occurred in a national park or refuge, the uncle would not have been allowed to even have brought an unloaded pistol along with him.⁶⁰

Additionally, a 38-year-old man hiking in British Columbia was attacked and mauled by a Grizzly Bear in June and would have been killed had he not managed to shoot the bear twice. Even though he was able to shoot the bear, he still needed 40 stitches and suffered a broken hand and multiple puncture wounds. In national parks and refuges, this story would have most likely ended tragically.⁶¹

The Washington Post also featured a two-part story recounting a double murder in 1981 and an attempted double murder earlier this year on the Appalachian Trail.⁶² Many of the 2,175 miles that make up this trail are under the jurisdiction of NPS. Adopting this amendment would ensure all law-abiding citizens would be able to protect themselves from rare, but dangerous, four- and two-legged predators on this trail and other NPS and FWS lands.

By passing this bill, the Senate will be voting to increase the safety of families and discourage criminals from taking advantage of vulnerable families on federal lands managed by the Department of the Interior. Congress will also finally ensure that elected representatives, instead of federal bureaucrats, determine Second Amendment policies in this

⁵⁹ “Aggressive bear shot in Denali National Park and Preserve,” July 6, 2008, The Daily News-Miner (AK), <http://www.newsminer.com/news/2008/jul/06/aggressive-bear-killed-denali-national-park-and-pr/>

⁶⁰ “Boy Saved From Rabid Mountain Lion,” Associated Press, March 11, 2008 http://ap.google.com/article/ALeqM5ieNw3YA5xOYoZzdHmbv_tL6BW0lgD8VBA0580

⁶¹ “Man mauled by grizzly kills bear, lives to tell tale,” June 6, 2008, Yahoo News, http://ca.news.yahoo.com/s/cbc/080606/canada/vancouver_bc_grizzly_attack_survivor

⁶² Wil Haygood, “Blood on the Mountain: In 1981, Randall Smith Murdered Two Campers on a Path He Was to Cross Again,” July 8, 2008, Washington Post, http://www.washingtonpost.com/wp-dyn/content/article/2008/07/07/AR2008070702332_pf.html

instance.

CLAIMS AND FACTS

CLAIM: Gun restrictions enacted by the National Park Service (NPS) and the U.S. Fish and Wildlife Service (FWS) are different than those of Bureau of Land and Management (BLM) and U.S. Forest Service lands (FS) because the roles of the agencies are different.

FACT: All four agencies have generally similar responsibilities to manage and protect federal properties and national resources.

The NPS mandate is to “[preserve] unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations.”⁶³

The FWS mandate is to “[work] with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.”⁶⁴

BLM’s mission is to “[sustain] the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.”⁶⁵ According to the FS Website, “the mission of the USDA Forest Service is to sustain the health, diversity, and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations.”⁶⁶

Besides the fact, that the missions of all four agencies are similar, because additional regulations prohibit the inappropriate use of firearms in non-designated areas, allowing for state conceal and carry laws will not compromise these agency missions. Instead, by allowing for state firearm laws to be recognized, visitors will feel safer and more protected in areas where there is limited or no law enforcement.

CLAIM: Animals will be poached and not adequately protected if visitors are permitted to carry guns in federal parks.

⁶³ “Mission,” NPS, <http://www.nps.gov/aboutus/mission.htm> - accessed April 24, 2009

⁶⁴ “Mission Statement, FWS, http://www.fws.gov/policy/npi99_01.html - accessed April 24, 2009

⁶⁵ “About the BLM,” BLM, http://www.blm.gov/wo/st/en/info/About_BLM.html - accessed April 24, 2009

⁶⁶ “Mission,” FS, <http://www.fs.fed.us/aboutus/mission.shtml> - accessed April 24, 2009

FACT: Separate regulations already outlaw such behavior. This legislation will not void those regulations.

This legislation is necessary to enable law-abiding Americans to defend themselves and their families – not to permit more hunting.

Additionally, officials from FS also have poaching regulations and, just like FWS, also have the option of enforcing Federal Wildlife crimes under a criminal code called the Lacey Act.⁶⁷

CLAIM: It would be impractical to enforce state-by-state conceal and carry laws on NPS lands.

FACT: Both the BLM and the Forest Service have not expressed any difficulties or frustration in recognizing state laws.

As it currently stands, the NPS does not enforce NPS regulations that void state concealed carry laws, except if violations are found inadvertently according to NPS congressional liaison. Even then, rangers will normally only give a warning to visitors that NPS regulations do not recognize state conceal and carry permits.

This bill would actually simplify rules for national park and refuge visitors by requiring them to abide by state and local laws regardless of what type of federal land they are visiting. Currently, visitors in some states may carry operational firearms in state parks, BLM and FS lands, but not in national parks and refuges.

CLAIM: Recognizing concealed carry state permits would compromise the effectiveness of NPS law enforcement.

FACT: Concealed carry permits exist for the protection of individuals – not law enforcement by regular citizens.

Current police forces are spread far too thin as it is and are not sufficient. According to GAO, for every one law enforcement officer there are about 10,000 visitors and 118,000 acres of land. According to a report, FWS only

⁶⁷ E-Mail from Forest Service Congressional Liaison, 01/25/2008

employs one law enforcement officer for every 550,000 acres of national refuge land.

Both FS and BLM do not believe their effectiveness has been compromised because states laws governing firearms are followed on their lands. Additionally, thousands of Americans with concealed carry permits in 48 states have not compromised the effectiveness of our law enforcement in states. Why should allowing concealed carry in national parks produce a different outcome?

CLAIM: Poaching has decreased as a result of these regulations.

FACT: According to CRS, there is no way of determining such a conclusion because poaching data is not maintained on a national basis throughout national parks and refuges for a variety of reasons.⁶⁸ Attempts by both NPS and FWS to keep poaching statistics have not succeeded for a variety of reasons.⁶⁹ Additionally, NPS, up until recently, did not even differentiate between different types of poaching when reporting any instances of poaching – including poaching archaeological relics, trees and plants, and animals.⁷⁰

According to DOI's limited recordkeeping of poaching incidents, there has actually been a 10 percent increase in these incidents between 2003 and 2006 – a jump from 365 incidents in 2003 to 405 in 2006.⁷¹ In contrast there were 16 homicides (including one manslaughter charge), 41 rape cases (including two attempted rapes), 92 robberies, 16 kidnappings, and 333 aggravated assaults out of 5094 Part I offenses.

CLAIM: Hunting is already allowed in a number of specially-designated areas.

FACT: This bill is not about hunting but concerns the right for Americans to protect themselves and their families from criminals and rabid and dangerous animals. This legislation will not overturn hunting regulations.

⁶⁸ Congressional Research Service E-mail – February 6, 2008

⁶⁹ Congressional Research Service, Firearms in the National Wildlife Refuge System and National Park System, February 15, 2008

⁷⁰ Letter to Dr. Coburn, Department of the Interior, April 9, 2008

⁷¹ Letter to Dr. Coburn, Department of the Interior, April 9, 2008

CLAIM: 7 former NPS directors have spoken out against changing the current regulations along with organizations such as the Association of National Park Rangers, the Coalition of National Park Service Retirees, and the U.S. Park Rangers Lodge. This legislation directly contradicts the opinions of those most knowledgeable of law enforcement in national parks and refuges and thus should not be endorsed.

FACT: Many of the concerns listed by these organizations have to do with poaching, not self-defense. The current situation in our national parks and refuges does not afford many visitors the benefits of adequate law enforcement protection – a fact that is emphasized by the increasing level of crime and violence experienced by Law Enforcement officers of these public lands.

The Association of National Park Rangers has requested that Congress weigh in on these federal regulations concerning the possession of firearms in these public lands.⁷² This amendment gives Congress, representing all Americans, instead of unelected bureaucrats the opportunity to do so.

CLAIM: The regulatory process improperly did not include a full environmental impact study.

FACT: Both the current and previous administrations agreed that this rule change does not significantly impact the “environmental status quo, and... public health and safety.”⁷³ This bill does not authorize poaching or illegal gun use.

⁷² Association of National Park Rangers, “ANPR Position on Personal Firearms in the National Park System,” January 27, 2008, http://www.anpr.org/guns_in_parks.htm

⁷³ Juliet Eilperin, “Justice Dept. Defends Bush Rule on Guns: But Interior Is Reviewing Measure, Which Allows Concealed Firearms in Parks,” February 17, 2009, Washington Post, <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/16/AR2009021601151.html>